

MONTANA LEGISLATIVE HISTORY

Chapter 82 1981

Bill H _____ S 204

Original bill & history X c

H. Committee on STATE ADMINISTRATION S. Committee on LOCAL GOV'T

Hearing Date(s) 3/9 X c
+ EXEC. ACTION

_____ c

_____ c

_____ c

Date Out _____ c

Hearing Date(s) 2/3 X c

EXECUTIVE ACTION 2/10 X c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE BILL NO. 204

INTRODUCED BY S. BROWN

IN THE SENATE

January 20, 1981	Introduced and referred to Committee on Local Government.
February 12, 1981	Committee recommend bill do pass as amended. Report adopted.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 42; Noes, 0. Transmitted to House.

IN THE HOUSE

February 18, 1981	Introduced and referred to Committee on State Administration.
March 9, 1981	Committee recommend bill be concurred in. Report adopted.
March 10, 1981	Second reading, concurred in.
March 12, 1981	Third reading, concurred in. Ayes, 69; Noes, 27.

IN THE SENATE

March 13, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
----------------	---

1 Handwritten BILL NO. 204
2 INTRODUCED BY STEVE BROWN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MAXIMUM
5 AGE AT WHICH A FIREFIGHTER MAY BE HIRED FROM 31 YEARS TO 35
6 YEARS OF AGE; AMENDING SECTION 7-33-4107, MCA."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 7-33-4107, MCA, is amended to read:
10 "7-33-4107. Qualifications of firefighters. The
11 qualifications of firefighters shall be that they:
12 (1) shall not be ~~over-31~~ more than 35 years of age at
13 the time of original appointment;
14 (2) shall have passed a physical examination by a
15 practicing physician duly authorized to practice in this
16 state; and
17 (3) at the option of said city or town, shall be
18 qualified voters of the city or town."

-end-

INTRODUCED BILL

SB 204

figure but did think they needed some increase. The \$10 figure is what it is costing the sheriff's department.

Senator O'Hara asked John Scully if the mileage charge is added now.

Mr. Scully said yes, mileage is charged now in addition to the fee.

Senator Van Valkenburg asked Sheriff O'Reilly for a rough breakdown of his \$52,000 budget.

Sheriff O'Reilly said this allows him 1.5 secretaries, a captain and two patrolmen to serve papers. This is also for gas and maintenance of vehicles.

Senator Van Valkenburg asked if the captain and two patrolmen work full time.

Sheriff O'Reilly said yes, they each work about 44 hours per week.

Senator Van Valkenburg asked Senator Mazurek or John Scully if historically, the general taxpayers haven't always supported the entire court system, in particular process serving, as part of the justice function of the government.

Senator Mazurek said that is probably correct. The fees have been very low. In 1975 it was increased from \$1 to \$2 but prior to that it had been \$1 for a great many years.

John Scully said Senator Van Valkenburg's comment was true. Society is going to have to pick up the tab for court fees, but to what percentage or degree do you want that to continue to happen. There is a basic level where all general taxpayers, in order to have a court system, are going to have to foot the bill. He thinks people using the services should be paying more than they currently are.

Senator Conover asked Sheriff O'Reilly if, in essence, this would be saving the taxpayers \$32,000.

Sheriff O'Reilly said that is correct. He wanted to add to his previous answer regarding his budget that with the existing workload of serving papers, he has to take patrolmen off their regular duties to assist the regular two patrolmen in their duties.

There were no further questions from the committee.

CONSIDERATION OF SENATE BILL NO. 204:

AN ACT TO RAISE THE MAXIMUM AGE AT WHICH A
FIREFIGHTER MAY BE HIRED FROM 31 YEARS TO 35
YEARS OF AGE.

Senator Steve Brown of District 15, sponsor of the bill, said that over a year ago he received a call from a constituent that had applied for a position with the fire department and found out the maximum age they could be hired was 31. This person was 32 at the time and had passed his physical examination. You can become a policeman until the age of 35. If you can start a career as a policeman at the age of 35, you should be able to start a career as a fireman at that age also. He handed out a proposed amendment. (See attached Exhibit C.) The amendment makes it clear that Montana determining a maximum age limit is a bonified qualification. He then introduced Ken Bangert.

Ken Bangert, representing himself, was the constituent Senator Brown had referred to. Ken was 32 at the time he applied. He has a letter from the City of Helena stating he was number 2 on the list so there was no problem with intelligence. The problem seems to be with retirement. He does not see why retirement cannot be prorated.

There were no further proponents. Senator McCallum then called for opponents.

Ray Blehm of the Montana State Firemen's Association said there is a bill that is pending in the House of Representatives that could have a direct impact on their retirement and this bill. Firefighters are required to climb large ladders and haul a lot of heavy equipment up them. When you have the 35 year age maximum coupled with 25 years of service, you are looking at a 60 year old firefighter. This bill would put you at 55 for retirement. He is definitely in favor of the amendment offered. The current law may not be binding as far as the federal government is concerned but it is necessary to some extent. He urges the committee to consider the amendment and put it back to age 31.

Mike Walker of the Montana State Council of Firefighters said not too many people know of all the requirements involved. It takes from 4 to 5 years to develop a firefighter to be able to work by himself. At age 35, this experience would put him at 39 or 40. This cuts down the productive life of the firefighter. Hypertension is considered the firefighters' disease. It usually attacks people between the ages of 35 and 38 years old. You have to take that into consideration. Often times your life depends on the fellow next to you.

No further opponents appeared before the committee.

Senator Brown added, in closing, that maybe no age limit is valid. A man at the age of 38 can be physically unable to be a firefighter. The issue should be what kind of physical shape you are in, not at what age you can start. If the maximum age for policemen is

35, he can see no distinction. A firefighter has to demonstrate his ability yearly through a physical.

Senator McCallum then called for questions from the committee.

Senator Hammond wanted someone to explain how the retirement program is set up. Is it on the basis of years and salary.

Mr. Blehm said you have to serve 20 years and be 50 years of age. You must be an active fireman at age 50. Deaths among firemen are about double that of policemen. Firefighting is a more hazardous profession.

Senator O'Hara asked Ray Blehm how many firefighters died in the last five years in Montana.

Mr. Blehm did not have that kind of statistics with him.

Senator Ochsner asked Mr. Blehm what the going rate of retirement was today.

Mr. Blehm explained they have an escalator provision.

Senator Van Valkenburg asked Mr. Blehm what minimum age other jurisdictions use.

Mr. Blehm did not know. He said in talking to other people around the country they are trying to keep it as low as possible for the reasons they have stated.

Senator McCallum asked Mr. Blehm if disability did not start until after 5 years of service.

Mr. Blehm said you do not get coverage until after 6 months of service and you are confirmed.

DISPOSITION OF SENATE BILL NO. 152: A motion was made by Senator Hammond that this bill receive a DO PASS.

Senator Van Valkenburg wonders about taking the floor out of this thing where there is no requirement that the people benefiting from this pay a specific amount. Taking off the ceiling is okay where they would have to pay the whole amount. You would be leaving it to the discretion of the local government.

Senator Hammond's motion carried unanimously. Senate Bill No. 152 DO PASS.

DISPOSITION OF SENATE BILL NO. 116: Senator Van Valkenburg offered an amendment which would provide the first \$100,000 of forest receipts would go to the counties and anything beyond that

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/3/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

NAME: Kenneth J. Binger DATE: 5 Feb 81

ADDRESS: 1709 Boulder HLA

PHONE: 443 1185

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: *SB 204*

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Ray Blehm DATE: 2-3-81

ADDRESS: 623 Ave B Blays MT 59102

PHONE: 252-7051

REPRESENTING WHOM? MT St Firemens Assn

APPEARING ON WHICH PROPOSAL: SB 204

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: This will result in

Active Fire Fighters working
at an advanced age when
Firefighting becomes very hazardous
to the individuals involved.

NAME: Mike Walker DATE: 2/3/81

ADDRESS: 965 Ave F NW, Corvallis

PHONE: 452-4272

REPRESENTING WHOM? Montana State Council of Fire Fighters

APPEARING ON WHICH PROPOSAL: S.B. 204

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: This legislation affects many members
of the fire department and will of our
community.

Amend S.B. 204:

"Firefighters."

Page 1, line 10, after ~~the~~ Insert "Because of the rigorous physical demands of the firefighting profession and the expectation of many years of emergency service, the State of Montana determines that age is valid bonafide occupational qualification for the position of firefighter."

Page: 1

Line: 10

Following: "Firefighters."

Insert: "The state of Montana determines that age is a valid bonafide occupational qualification for the position of firefighter because of the rigorous physical demands of the firefighting profession and the expectation of many years of emergency service."

Senate Bill 204

Firemen's maximum age limit for employment in other states of the union.

California - maximum age : 35

Idaho - no age limit ; depends on health of applicant

Pennsylvania - maximum age : 35

Texas - maximum age : 36

Utah - no age limit ; depends on health of applicant

Washington - no age limit ; depends on health of applicant

Wyoming - maximum age : 33

* note : In the states where there is no age limit, it is up to the firefighters commission to determine if a man is capable of fighting fires. They take into account the results of the physical and the duties which will be placed on the applicant.

Senator McCallum asked if in most offices, if you miss a certain number of meetings your seat is automatically vacated - or is that in the bylaws.

Mr. Mizner said you may be absent with the consent of the council. We need an ordinance in the cities now, we shouldn't wait until a situation like this occurs in each city.

Senator Hammond asked if there is a way to do this on the city level.

Mr. Mizner said if there are no guidelines in the law, some cities will not do anything about it until after a situation such as this occurs.

Senator O'Hara moved Senate Bill No. 328 DO PASS. This motion passed unanimously.

DISPOSITION OF SENATE BILL NO. 204: Senator Van Valkenburg moved that Senate Bill No. 204 be amended to provide that the age matter be reduced so it encompasses up to an individual's 35th birthday and that it be amended so we adopt the language recognizing age as a bona fide qualification for this particular line of work.

Senator McCallum said the lobbyists for the firemen agreed to these amendments.

Senator Van Valkenburg's motion passed with all but Senator Hammond in favor.

Senator Van Valkenburg moved that Senate Bill No. 204 DO PASS as amended. Senator Hammond was opposed, all others voted aye.

There being no further business before the committee, the meeting was adjourned at 2:25.


Chairman George McCallum

ROLL CALL
LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/10/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas		✓	
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

1. Title, line 5.
Following: "To"
Strike: "35"
Insert: "34"

2. Page 1, line 12.

Following: "firefighters."

Insert: "the State of Montana determines that age is a valid bona fide occupational qualification for the position of firefighter because of the rigorous physical demands of the firefighting profession and the expectation of many years of emergency service"

3. Page 1, line 12.

Following: "than"

Strike: "35"

Insert: "34"

STANDING COMMITTEE REPORT

February 10

1931

MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE**

Bill No. **204**

Respectfully report as follows: That **SENATE**
be amended as follows:

Bill No. **204**

1. Title, line 5.

Following: "TO"

Strike: "35"

Insert: "34"

2. Page 1, line 10.

Following: "firefighters."

Insert: "The state of Montana determines that age is a valid, bona fide occupational qualification for the position of firefighter because of the rigorous physical demands of the firefighting profession and the expectation of many years of emergency service."

3. Page 1, line 12.

Following: "than"

Strike: "35"

Insert: "34"

and, as so amended,

DO PASS

P.A.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/10/81 Senate Bill No. 204 Time 1:00

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond		✓
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	Absent	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell Secretary, Gail Stockwell George McCallum Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved SB 204 DO PASS
as amended.

(include enough information on motion--put with yellow copy of committee report.)

Senate Bill 325 (cont.)

Phillips: There is a significant cost factor involved but we do not have a fiscal note.

Stephen: There is no fiscal note but if all of the 64 officers in the state got a \$2,000 increase it would be \$128,000.

Senator Stephens closed the hearing on SB 325.

SENATE BILL 204-SPONSOR, Senator Steve Brown, introduced this bill which states that age is a valid, bona fide occupational qualification for the position of firefighter. It raises the maximum age at which a firefighter may be hired from 31 years to 34. Senator Brown said that this bill came about as a result of a call he received from a constituent who had taken the tests and passed the physical to become a firefighter but because he was 32 he did not qualify. He stated that after checking with several other systems he has found that 35 is the average maximum age limit for hiring if there is any limit at all.

PROPONENTS

AL SAMPSON, Montana State Firechiefs Assoc., stated that they have had some problems with the federal people concerning the legality of having an age limit and there is a possibility that they have no grounds for this limit anyway, therefore, they have no objection to this bill other than the possible impact on the retirement disability program. He stated that the average age of a new firefighter is twenty-six and a situation such as Senator Brown cited is very unusual so the impact would probably be very minimal.

HARRY CRAWFORD, Montana State Firefighter's Assoc., stated that they reluctantly support this bill.

OPPONENTS

There were no opponents present to testify on SB 204.

QUESTIONS BY THE COMMITTEE:

Sales: If a firefighter doesn't start until he is 34 and he would have to work 20 years before getting retirement he would be 54 before he could retire and I do not think a person that age could keep up the pace of the job.

Brown: I think this depends on the physical condition of the individual. I believe yearly examinations are given. If a person did not pass the examination they would not be allowed to continue fighting fires.

Sampson: The yearly examinations are not mandatory but if we think a person needs one then they have to have it.

Brown: This is where the question of whether or not any age limit is valid comes in. It all depends on the individual.

Mueller: Isn't it correct that every year that we increase the age limit there is a greater chance that that person will be on disability.

Sampson: The average age of hiring is twenty-six so I do not believe there would be a significant difference but my main problem is that we get firefighters from out of state who have been laid off and apply for work in our departments. These people have experience and are qualified but they are older and have several years of service in. We will be stuck for paying their pensions a few years down the road if we have no grounds for not hiring them.

Senator Brown closed the hearing on SB 204. He said that if this bill does not pass there will more than likely be court proceedings brought against the department and, he stated, I do not think that would be the way to handle this problem.

SENATE BILL 15-SPONSOR, Senator Mazurek, introduced this bill which removes the ceilings on the interest rates for county and municipal general obligation bonds, municipal revenue bonds, television district revenue bonds, local improvement district bonds, urban renewal bonds, smoke abatement project bonds, county hospital and nursing home bonds, and school district bonds. It also permits political subdivisions to determine the interest rates on these bonds for approximately two years beginning on passage and approval of this bill and ending July 1, 1983. In addition, it suspends the 7% cap on interest rates for county and municipal general obligation bonds during this period. Senator Mazurek gave several examples of county projects, nursing home projects, hospital extensions etc. that can not go forward because of these interest rate limitations. Most of the ceilings are at 7 or 9 %, he stated, the 7% applying to

STATE ADMINISTRATION
MARCH 9, 1981
Page 12

EXECUTIVE SESSION (cont.)

SENATE BILL 71

BE CONCURRED IN

Representative Sales moved that SB 71 BE CONCURRED IN. He pointed out to the committee that the figures quoted by Mr. Holmes were incorrect but that this amount is not significant.

A vote was taken and carried unanimously.

Representative McBride was assigned to carry SB 71 in the House.

SENATE BILL 204

BE CONCURRED IN

Representative Sales made an motion that the age be amended back to 31 but the section stating that age is a valid bona fide occupational qualification be passed. He said this should be part of the law no matter what the age limit is. Discussion on this motion followed.

Some of the committee felt this would be changing the intent of the bill since the original intent was to raise the age and the "bona fide occupational qualification" was amended in by the Senate.

Representative Spilker said that the committee could amend the age to 32.

Representative Mueller made a motion that the age be amended to 32. A vote was taken and failed .

Representative Smith made a motion that SB 204 BE NOT CONCURRED IN. A roll call vote was taken and failed with 7 YES, 11 NO and 1 absent.

A motion was made to reverse the vote. Motion carried unanimously. SB 204 BE CONCURRED IN 11 - 7. See roll call vote sheet for vote.

Representative Winslow was assigned to carry SB 204 in the House.

VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

BILL SB 204

Date 3/9/81

SPONSOR S. STEVE BROWN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1 SENATE BILL NO. 204

2 INTRODUCED BY S. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MAXIMUM
5 AGE AT WHICH A FIREFIGHTER MAY BE HIRED FROM 31 YEARS TO 35
6 34 YEARS OF AGE; AMENDING SECTION 7-33-4107, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 7-33-4107, MCA, is amended to read:

10 "7-33-4107. Qualifications of firefighters. THE STATE
11 OF MONTANA DETERMINES THAT AGE IS A VALID, BONA FIDE
12 OCCUPATIONAL QUALIFICATION FOR THE POSITION OF FIREFIGHTER
13 BECAUSE OF THE RIGOROUS PHYSICAL DEMANDS OF THE FIREFIGHTING
14 PROFESSION AND THE EXPECTATION OF MANY YEARS OF EMERGENCY
15 SERVICE. The qualifications of firefighters shall be that
16 they:

17 (1) shall not be ~~over-31~~ more than 35 34 years of age
18 at the time of original appointment;

19 (2) shall have passed a physical examination by a
20 practicing physician duly authorized to practice in this
21 state; and

22 (3) at the option of said city or town, shall be
23 qualified voters of the city or town."

-End-

REFERENCE BILL

SB 204